

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Cutting Edge Enterprises, Inc.  
Forest Lake, Minnesota

Proceedings Pursuant to  
The Clean Air Act,  
42 U.S.C. §§ 7401–7671q

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**FINDING OF VIOLATION**

**EPA-5-20-MOB-02**

**FINDING OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation to Cutting Edge Enterprises, Inc. (Cutting Edge) for violating Section 203(a)(3)(A) and 203(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3)(A) and 7522(a)(3)(B).

**Statutory and Regulatory Background**

1. Title II of the CAA, 42 U.S.C. §§ 7521–7554, was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” Section 101(a)(2) of the CAA, 42 U.S.C. § 7401(a)(2). Congress’s purpose in enacting the CAA included “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.” Section 101(b)(1) and Section 101(b)(2) of the CAA, 42 U.S.C. § 7401(b)(1) and 7401(b)(2).
2. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO<sub>x</sub>), and other pollutants applicable to motor vehicles and motor vehicle engines, under Section 202 of the CAA, 42 U.S.C. § 7521. *See* 40 C.F.R. Part 86.
3. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a motor vehicle manufacturer from selling a new motor vehicle in the United States unless the motor vehicle is covered by a certificate of conformity. EPA issues certificates of conformity to motor vehicle and motor vehicle engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The certificate of conformity will include, among other things, a description of the motor vehicle engines, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.
4. Motor vehicle and motor vehicle engine manufacturers employ many devices and elements of design to meet emission standards. *Element of design* means “any control system (i.e., computer software, electronic control system, emission control system,

computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.”  
*See* 40 C.F.R. §§ 86.094-2 and 86.1803-01.

5. To meet the emission standards in 40 C.F.R. Part 86, and qualify for a certificate of conformity, diesel-powered motor vehicle and motor vehicle engine manufacturers may utilize control devices or elements of design such as Diesel Particulate Filter (DPF), Exhaust Gas Recirculation (EGR), Diesel Oxidation Catalyst (DOC), and/or Selective Catalytic Reduction (SCR) systems.
6. Diesel-powered motor vehicle and motor vehicle engine manufacturers may also employ retarded fuel injection timing as a primary element of design to limit emissions of NO<sub>x</sub>. *See* 59 Fed. Reg. 23,264 at 23,418 (May 5, 1994) (“[I]njection timing has a very significant impact on NO<sub>x</sub> emission rates, with advanced timing settings being associated with higher NO<sub>x</sub> . . .”).
7. Modern motor vehicles and engines are equipped with electronic control modules (ECMs). ECMs continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the DPF, EGR, SCR systems and the engine fueling strategy.
8. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 that require motor vehicles to have a number of devices or elements of design that, working together, can detect problems with the vehicle’s emission-related systems, alert drivers to these problems, and store electronically-generated malfunction information. *See* 40 C.F.R. §§ 86.007-17, 86.010-18, and 86.1806-05. These devices or elements of design are referred to as “onboard diagnostic systems” or “OBD” systems.
9. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), makes it unlawful for “any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.”
10. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), makes it unlawful for “any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.”

11. Section 216(2) of the CAA, 42 U.S.C. § 7550(2), defines “motor vehicle” as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” *See also* 40 C.F.R. § 85.1703 (further defining “motor vehicle”).
12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include a corporation.

### **Facility Background**

13. Cutting Edge is an “aftermarket automotive parts” supplier and installer located in Forest Lake, Minnesota. “Aftermarket automotive parts” are replacement automotive parts that are not made by the original motor vehicle manufacturer.
14. Cutting Edge is a “person,” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
15. On October 30, 2019, under Section 208 of the CAA, 42 U.S.C. § 7542, EPA issued a Request to Provide Information Pursuant to the Clean Air Act (Information Request) to Cutting Edge.
16. On January 21, 2020, Cutting Edge submitted a response to EPA’s Information Request. In the response, Cutting Edge provided information showing that between January 1, 2018 and October 30, 2019 Cutting Edge sold and installed at least 622 parts or components on motor vehicles where a principal effect of each part or component was to disable, remove, bypass, defeat, or render inoperative air pollution emission control systems installed on or in diesel-powered motor vehicles and motor vehicle engines in compliance with Title II of the CAA. More specifically, Cutting Edge sold, offered for sale, and installed 261 parts or components that remove or bypass the EGR system or can only operate with EGR system removed, 240 parts or components that remove or bypass the DPF and/or other exhaust aftertreatment system, and 121 tunes or tuners that bypass or allow for the removal of the EGR and/or exhaust aftertreatment systems.
17. Of the 261 parts or components that remove or bypass the EGR system or can only operate with the EGR system removed, most were manufactured by GDP Tuning or Big End Performance and supplied by Meyer Distributing, Inc. The products listed below are examples of these 261 products listed by Cutting Edge in Response to EPA’s Request for Information:
  - a. “11-15 GM DURAMAX 6.6L EGR/COOLER BLOCKER KIT,” (product Number: Gopr-EGRD-11-15LML),
  - b. “EGR BLOCKER KIT FORD 6.4L 08-10,” (Product Number: BEPD30003), and
  - c. “03-07 FORD 6.0L POWERSTROKE EGR DELETE KIT,” (Product Number: DEV93100).
18. Of the 240 parts or components that remove or bypass the DPF and/or other exhaust aftertreatment system, most were manufactured by Jamo Performance Exhaust, MBRP

Ltd., or aFe Power and supplied by Meyer Distributing, Inc. The products listed below are examples of these 240 products listed by Cutting Edge in Response to EPA's Request for Information:

- a. "11-16 F250/F350/F450 6.7L 4IN CAT/DPF RACE EXHAUST" (Part Number: MBPCFAL458),
  - b. "13-16 DODGE 6.7L 4IN TURBO BACK MUFFLER EXHAUST" (Part Number: JAMD006TB-MD), and
  - c. "11-15 GM SILVERADO/SIERRA 2500/3500 6.6L DIESEL EXHAUST" (Part Number: AFE49-04022).
19. Of the 121 tunes or tuners that bypass or allow for the removal of the EGR and/or exhaust aftertreatment systems, many were manufactured by Gear Box Z Inc., EZ Lynk, or Power Performance Enterprises, Inc., and all were supplied by Diesel Performance of Texas, Synthetic Motorsports Inc., Dales Billet Sales, LLC, 4L Diesel Consulting, LLC, or Meyer Distributing, Inc. The products listed below are examples of these 121 products listed by Cutting Edge in Response to EPA's Request for Information:
  - a. "11-18 Ford, Dodge, GM EZ LYNK AUTO AGENT TUNER," (Product Number: GOPEZFCDR),
  - b. "PPEI EZ LYNK AUTOAGENT FORD, DODGE, GM TUNER," (Product Number: PEIEZ-XWS-UNLIMITED), and
  - c. "DPFR Tuner," (Product Number: GBZ-FED40).
20. In its January 21, 2020 response, Cutting Edge did not provide complete responses to the Information Request. More specifically, it did not provide copies of any receipts, work orders, or invoices of products sold, installed, and/or performed by you, as requested in requests 4(c)-(d) of the Information Request.
21. EPA finds that the parts and components sold and offered for sale by Cutting Edge are intended for "motor vehicles" as defined by Section 216(2) of the CAA.

### **Violations**

22. EPA finds that Cutting Edge violated and continues to violate Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), by knowingly removing and/or rendering inoperative the engine fueling strategy, DPF, EGR, OBD, and SCR systems, and tampering with the emissions-related elements of the ECM installed on motor vehicles.
23. EPA finds that Cutting Edge violated and continues to violate Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling, offering to sell, and/or installing parts and/or components where a principal effect of the part or component was to bypass, defeat or render inoperative the engine fueling strategy, DPF, EGR, OBD, and SCR systems, and tampering with the emission-related elements of the ECM installed on motor vehicles,

where it knew or should have known that such parts and/or components were being offered for sale or installed for such use or put to such use.

### **Environmental Impact of Violations**

24. These violations may result in excess emissions of PM, NO<sub>x</sub>, hydrocarbons, and other air pollutants and contribute to increased ground level ozone concentrations. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Exposure to ground-level ozone can also reduce lung function and inflame lung tissue; repeated exposure may permanently scar lung tissue.

### **Enforcement Authority**

25. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Persons violating Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3), are subject to actions to restrain such violations under Section 204 of the CAA, 42 U.S.C. § 7523, and a civil penalty for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.

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Date

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance  
Division

**CERTIFICATE OF ELECTRONIC MAILING**

I certify that I sent a Finding of Violation, No. EPA-5-18-MOB-02, by email, Return Receipt Requested, to:

Josh Jeans  
Cutting Edge Enterprises, Inc.  
24400 Greenway Avenue N  
Forest Lake, Minnesota 55025

I also certify that I sent a Finding of Violation, by e-mail to:

Paul Sarratori  
Mesenbourg & Sarratori Law Offices, P.A.  
[paul@sarratorilaw.com](mailto:paul@sarratorilaw.com)

and

Sarah Kilgriff, Manager  
Land and Air Compliance Section  
Industrial Division  
Minnesota Pollution Control Agency  
[Sarah.Kilgriff@state.mn.us](mailto:Sarah.Kilgriff@state.mn.us)

On the day of \_\_\_\_\_ .

\_\_\_\_\_  
Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: \_\_\_\_\_